

THE MORNING APPEAL

CARSON CITY, NEVADA.

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TERMS.

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IN THE SUPREME COURT OF THE STATE OF NEVADA.

Mrs. C. I. Candler, et al. Respondents,
 vs.
 Washoe Lake Reservoir and Galena Creek Ditch Co., Appellant.
 Messrs. Cheney & Massey, Attorneys for Respondent.
 Messrs. Mack & Farrington, Attorneys for Appellant.

On motion to strike out cost bill. The appellant in this case was awarded its costs upon appeal. (See opinion 80 Pac. 751). Subsequent to the filing of the opinion and decision in the case, but before the time had elapsed for issuance of remittitur, counsel for appellant filed with the Clerk of this Court a cost bill, covering the fees and charges of the Clerk of this Court; the cost of typewriting the transcript on appeal; and, what doubtless is the costs of the clerk of the lower court in perfecting the appeal. Counsel for respondent have moved to strike this cost bill from the files upon the ground that it was not filed within the time prescribed by statute or rule of court.

While the decision in this case gave the appellant its costs upon appeal, appellant must come within the laws or rules regulating the matter of costs to make the decision, in respect to cost, effectual. Costs can only be recovered in pursuance of the provisions of statute or rule of court. (McKenzie vs. Coslett, 28 Nev. 80 Pac. 1070.)

Subdivisions 1 and 2 of Rule VI of this Court read as follows:

"1. The expense of printing or typewriting transcripts, affidavits, briefs or other papers on appeal in civil causes and pleadings, affidavits, briefs or other papers constituting the record in original proceedings upon which the case is heard in this court, required by these rules to be printed or typewritten, shall be allowed as costs, and taxed in bills of costs in the usual mode; provided, that no greater amount than twenty-five cents per folio of one hundred words shall be taxed as costs for printing and no greater amount than twelve and one-half cents per folio for one copy only shall be taxed as costs for typewriting. All other costs to be taxed by the Clerk in accordance with the fee bill.

"2. Either party desiring to recover as costs his expenses for printing or typewriting in any cause in this court, shall before said cause is submitted, file with the clerk and serve upon the opposite party a verified cost bill, setting forth or stating the actual cost of such printing or typewriting, and no greater amount than such actual cost shall be taxed as costs."

The method of taxing costs in this court is governed by Rule VI, section 486 of the Civil Practice Act (Compiled Laws 3581), being applicable only to District Courts. (Gray vs. Gray 11 Cal. 341; Ex Parte Burrill et al., 24 Cal. 350.)

In the absence of an agreement by counsel made in open court or by stipulation filed, the provisions of Rule VI, relative to the time of filing cost bills, must be complied with to entitle a party to recover those costs which are required to be embraced within a cost bill, to wit: the expense of printing or typewriting transcripts, affidavits etc. All other costs

are to be taxed by the clerk in accordance with the fee bill, and for such costs, a cost bill is not requisite. Rule VI is broad enough to allow the Clerk of this Court to tax the costs made in the court below upon the appeal in accordance with the fee bill. The record on appeal will show what costs have been made in the lower court in perfecting the appeal, but for convenience of the clerk appellants may provide the clerk with a memorandum of such costs which he can verify by a reference to the fee bill.

The cost bill in this case not having been filed with the time required by the rule will be stricken out.

We concur:
 Fitzgerald, C. J.
 Talbot, J.
 Filed Sept. 26, 1905.

W. G. Douglass, Clerk.
 By J. W. Legate, Deputy.

A MATTER OF HEALTH



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Commencing September 25th, and continuing daily up to and including October 12 the Southern Pacific Company will sell ten day round trip tickets between Reno and Portland, Or., at rate of \$24, and twenty-one day round trip tickets at \$28.

Eleven days extension will be made on tickets at Portland on payment of \$5.00 and twenty days on payment of \$10.00.

Continuous passage is required on the \$24 ticket in both directions, unless above extension is secured, when it is good for stopover returning. The 21 days ticket is good for continuous passage going, but stopovers are allowed returning.

Tickets are good from Reno on trains 13 and 3 only, making connection following day with train for Portland at Sacramento and Davis, Cal.

For further information apply to
 A. H. RISING,
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Proposals Wanted.

Sealed proposals will be received up to 10 o'clock A. M. of October 2, 1905, at the County Clerk's Office, Carson City, Nevada, for furnishing 25 cords of first growth, split pine wood, to be delivered at the County Building, on or before the 15th day of October, 1905.

Bids to be addressed to the Clerk of the Board of County Commissioners.

By order of the Board of County Commissioners

H. B. VAN ETEN, Clerk.

Dated, Sept. 20, 1905.

For Sale or Rent.

Block 52, containing 7 houses and one barn. Six houses furnished. Located in south east section of Carson City. Bonded by Robinson, Spear, Stewart and North Valley streets.

Also one buckboard, 1 buggy, 2 sets or double harness, single harness. Block of ground is situated three blocks east of main street. For further particulars, apply of F. L. Langevin.

Notice to Builders.

The State Board of Capitol Commissioners will receive bids up to noon on the 15th day of October for the construction of a two story and basement stone building on the capitol grounds in Carson City, Nevada, as follows:

The State is to furnish the stone prepared at the State Prison about two miles distant from the site; the building to be completed on or before the 31st day of December, 1906, as provided by an Act of the Legislature of the State of Nevada, approved March 13, 1905, which Act is hereby referred to and made a part of this notice.

The plans and specifications can be seen by applying at the Governor's office, Carson City, Nevada.

The Board reserves the right to reject any and all bids.

Mark envelope, "Bid for Building." By order of the Board,
 W. R. DAVIS, Clerk.

Notice.

Notice is hereby given that the Assessor has this day delivered to the undersigned the assessment roll for the current fiscal year, together with the map book and the original lists of property and that the Board of County Commissioners will meet as a Board of Equalization at the County Clerk's office, Monday Sept. 18th instant at 10 o'clock a. m., and continue in session from time to time, as provided by law, until the business of equalization is disposed of.

H. B. Van Etten, Clerk of the Board of County Commissioners.
 Dated Sept. 11, 1905.

New Goods.

Joe Platt has received samples of tailor made suits which are, without doubt the finest ever shown in this city. A number of suits have already been made and they are perfect fits in every case. Get your measure taken and do it before the best samples are gone. He guarantees a fit or no pay.

Notice to Hunters.

Notice is hereby given that any person found hunting without a permit on the premises owned by Theodore Winters will be prosecuted. A limited number of permits will be sold at \$5 for the season, or 50 cents for one day.

A. C. WINTERS.

The State Bank & Trust Co

Carson City, Nevada.

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Agency at Tonopah, Nevada.

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T. B. Rickey, President; George H. Meyers, First Vice Pres.
 G. W. Richard, 2d Vice President; J. T. Davis, Cashier and Secretary.
 D. Vanderlieth, Assistant Cashier and Secretary.

SAFE DEPOSIT DEPARTMENT.

OVER ONE HUNDRED SAFE DEPOSIT BOXES have been placed in the bank. They are modern in design, being made of half-inch steel. They are BURGLAR AND FIRE PROOF, and offer a safe receptacle for valuable papers, jewelry, etc. They are rented on terms, at prices ranging from \$2 to \$4, according to size. Full information furnished on application.

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Our delivery wagon
 at your service for
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Geo Brown, Prop

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Notice.

All persons are forbidden to fish in the Hobart Creek reservoir or in the feeder to same. We have placed a watchman at this reservoir and all persons caught trespassing or fishing contrary to this notice will be prosecuted.

Virginia & Gar. Hill Water Co.

Cattle and Horses.

The City Marshal gives warning that all loose stock found on the streets from this time on will be impounded. A strict attention to this parties owning stock will take warning ordinance will be enforced and impounding fines will be imposed in every case.

Wm. Kinney,
 Marshal.

Notice to Hunters.

Notice is hereby given that any person found hunting without a permit on the premises owned by Theodore Winters, will be prosecuted. A limited number of permits will be sold at \$5 for the season or 50 cents for one day.

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Spacious sample rooms for commercial
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